



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/167957

PRELIMINARY RECITALS

Pursuant to a petition filed August 10, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on September 17, 2015, at Racine, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits from \$113/month to \$77/month effective June 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kraemer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On April 20, 2015, the Petitioner completed a FS renewal. He reported federal SSI of \$659.70/month and state SSI of \$83.78/month. He reported rent of \$175/month which includes heat. He reported separate electric and phone expenses.

3. On April 21, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would decrease to \$77/month effective June 1, 2015.
4. On August 10, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

On April 28, 2014, a change was made to the standard utility allowance/deduction available to household receiving FS benefits. See DHS Operations Memo 14-16. At the time of the determination in this case, households that received a payment from the Wisconsin Housing Energy Assistance Program (WHEAP) in the previous 12 months receive the full Housing Standard Utility Allowance (HSUA) of \$446/month. Households that paid two or more non-heat qualifying utility expenses (phone, water, sewer, electric, cooking fuel, or trash) received a Limited Utility Allowance (LUA) of \$321/month. Households that paid only a non-heat electric bill received an Electric Utility Allowance (EUA) of \$161/month. Households that paid only water, sewer, septic tank installation/maintenance or wastewater treatment bills received a Water and Sewer Utility Allowance (WUA) of \$74/month. Households that paid only a cooking fuel expense received a Fuel Utility Allowance (FUA) of \$37/month. Households that paid only a telephone expense, including cell phones, received a Phone Utility Allowance (PUA) of \$30/month. Households that paid only a trash or garbage bill received a Garbage and Trash Utility Allowance (TUA) of \$19/month.

In this case, the Petitioner reported that his heat was included in his rent but that he paid separate utility bills for electric and for phone. The Petitioner was eligible for the LUA of \$321/month. This was a lower deduction than he had previously been eligible for prior to the change in policy in April, 2014.

I reviewed the agency's calculations regarding the Petitioner's FS allotment effective June 1, 2015. The agency properly calculated his monthly income as \$743.48. The agency applied the standard deduction of \$155 to arrive at an adjusted income of \$588.48 (\$743.48 - \$155). The agency calculated shelter costs of \$175 for rent and \$321 for utilities for total shelter expenses of \$496/month. The shelter deduction was correctly calculated as \$201.76 (\$496 - 50% of \$588.48). The agency then applied the shelter deduction for a net adjusted income of \$386.72 (\$588.48 - \$201.76). The FS allotment is calculated as the maximum benefit for a one-person household of \$194 minus \$116.10 which is 30% of the net adjusted income of \$386.72.

Based on the evidence presented, I conclude that the agency properly determined the Petitioner's FS benefits as \$77/month effective June 1, 2015.

As dicta, the Petitioner noted that he needs to have dental work done in the near future. The Petitioner was advised to submit his unpaid dental bills to the FS agency when he gets the bills so that they can be reviewed for a possible medical expense deduction.

CONCLUSIONS OF LAW

The agency properly calculated the Petitioner's FS benefits as \$77/month effective June 1, 2015.

THEREFORE, it is

ORDERED

The Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 2nd day of October, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 2, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability